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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

19 TWITTER, INC.,

Case No. 14-cv-4480-YGR

20 Plaintiff,

**JOINT STIPULATION REGARDING
FURTHER PROCEEDINGS
FOLLOWING DEFENDANTS'
ASSERTION OF STATE SECRETS**

21 v.

22 WILLIAM P. BARR, Acting Attorney General
23 of the United States, *et al.*

Hon. Yvonne Gonzalez Rogers

24 Defendants.

1 Pursuant to Local Rules 6-1 and 6-2—and in accordance with the Court’s February 14,
2 2019 Order (Dkt. No. 272)—Plaintiff Twitter, Inc. and Defendants William P. Barr, the United
3 States Department of Justice, Christopher Wray, and the Federal Bureau of Investigation
4 (collectively, “Defendants”), by and through their respective counsel of record, submit the
5 following joint stipulation regarding outstanding deadlines in this case.

6 WHEREAS:

7 1. On February 14, 2019, the Court granted the parties’ prior joint stipulation and
8 ordered (1) the Government, by March 15, 2019, to inform the Court and Twitter whether it
9 intends to assert the state secrets privilege in this matter, and (2) the parties, by March 19, 2019,
10 to submit “a proposed schedule for further proceedings based on the Government’s decision
11 regarding an assertion of the state secrets privilege (including a proposed briefing schedule if the
12 Government does decide to invoke the state secrets privilege).” Dkt. No. 272.

13 2. On or about March 15, 2019, Defendants filed a Request that the Court Discharge
14 the Order to Show Cause and Deny Plaintiff’s Request for Access to the Classified Steinbach
15 Declaration, or in the Alternative, a Motion to Dismiss in Light of the Attorney General’s
16 Assertion of the State Secrets Privilege (the “State Secrets Motion”). *See* Dkt. No. 281 (Motion);
17 *see also* Dkt. No. 282 (Notice of Lodging of Classified Declaration of Michael C. McGarrity).

18 3. On March 18 and 19, 2019, the parties met and conferred regarding further
19 proceedings in this matter in light of Defendants’ State Secrets Motion.

20 4. On March 19, 2019, the parties submitted a Joint Stipulation for Extension of
21 Time to File Stipulation Regarding Further Proceedings Following Defendants’ Assertion of
22 State Secrets Privilege, seeking an extension to March 21, 2019, for the parties to file their
23 proposed schedule for further proceedings regarding the State Secrets Motion.

24 5. On March 20, 2019, the Court entered an order granting the parties’ March 19
25 Joint Stipulation and extended the time to submit a proposed briefing schedule to March 21,
26 2019.

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1 6. Also on March 20, 2019, Defendants sought Twitter's consent for a two-week
 2 extension of the deadline for Defendants to complete their production of their remaining logs for
 3 classified documents.

4 7. The parties have agreed to hereby propose the following deadlines:
 5 a. Defendants' remaining logs for classified documents shall be due by **April 5,**
 6 **2019;**
 7 b. Twitter's opposition to the State Secrets Motion shall be due **April 29, 2019;**
 8 c. Defendants' reply in support of their State Secrets Motion shall be due **May**
 9 **21, 2019;** and
 10 d. A hearing on Defendants' State Secrets Motion shall be set for **June 4, 2019,**
 11 or any time thereafter that is convenient for the Court.

12 8. Furthermore, Twitter hereby advises the Court of its intent to file a letter by
 13 March 29, 2019, requesting a pre-filing conference. At that pre-filing conference, Twitter will
 14 move for leave to file a motion for partial summary on its claim alleging a facial challenge to the
 15 constitutionality of the FISA regime. Twitter submits that the parties' present dispute over the
 16 Government's invocation of the state secrets privilege as to the Classified Steinbach Declaration
 17 has no bearing on its facial challenge. Proceedings as to that claim therefore can (and should)
 18 proceed in parallel with resolution of any dispute (including any interlocutory appeal) over
 19 Twitter's counsel's right to access the Classified Steinbach Declaration for purposes of litigating
 20 Twitter's as-applied challenge.

21 9. The Government intends to oppose Plaintiff's forthcoming request for a pre-filing
 22 conference and for leave to file a motion for partial summary on its claim alleging a facial
 23 challenge to the constitutionality of the FISA regime. For reasons the Government will set forth
 24 in its response to Plaintiff's letter, this claim should not be subject to piecemeal adjudication.

25 10. A proposed order on the parties' joint stipulation is attached hereto.

1 Agreed to and submitted by:

2 Dated: March 21, 2019

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3 /s/ Lee H. Rubin

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14 *ATTORNEYS FOR PLAINTIFF*
15 TWITTER, INC.

16 Pursuant to General Order No. 45, I, Lee H. Rubin, attest that I obtained concurrence in
17 the filing of this document from the following signatories.

18 Dated: March 21, 2019

19 JOSEPH H. HUNT

20 Assistant Attorney General

21 DAVID L. ANDERSON

22 United States Attorney

23 ANTHONY J. COPPOLINO

24 Deputy Branch Director

25 JULIA A. HEIMAN (Bar No. 241415)

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16 *Attorneys for Plaintiff Twitter, Inc.*

17 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

18 TWITTER, INC.,

19 Case No. 14-cv-4480-YGR

20 Plaintiff,

21 v.
**[PROPOSED] ORDER RE JOINT
STIPULATION REGARDING FURTHER
PROCEEDINGS FOLLOWING
DEFENDANTS' ASSERTION OF STATE
SECRETS**

22 WILLIAM P. BARR, Acting Attorney General
of the United States, *et al.*

23 Defendants.

24 Hon. Yvonne Gonzalez Rogers

1 Pursuant to the joint stipulation of the parties:

- 2 1. The deadline for completion of Defendants' remaining logs for classified
3 documents shall be continued to **April 5, 2019**;
- 4 2. Twitter's opposition to the State Secrets Motion shall be due **April 29, 2019**;
- 5 3. Defendants' reply in support of their State Secrets Motion shall be due **May 21,**
6 **2019**; and
- 7 4. A hearing on Defendants' State Secrets Motion shall be set for **June 4, 2019**, or
8 any time thereafter that is convenient for the Court.

9 IT IS SO ORDERED.

10 Dated: March __, 2019

11 _____
12 The Hon. Yvonne Gonzalez Rogers
13 United States District Judge
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